

auditor should determine, to the extent possible, the effect on royalty reporting of the non-arms'-length nature of related party transactions, such as transfers of oil to refinery units affiliated with the producer. A review should be made of compliance with the appropriate laws and regulations applicable to program operations. MMS shall issue guidelines as to the definition and nature of arms'-length and non-arms'-length transactions for use in carrying out delegated audit activities.

(3) *Standards of reporting.* (i) Written audit reports are to be submitted to the appropriate MMS officials at the end of each field examination.

(ii) A statement in the auditors' report that the examination was made in accordance with the generally accepted program audit standards (including the applicable General Accounting Office (GAO) standards) for royalty compliance audits should be in the appropriate language to indicate that the audit was made in accordance with this statement of standards.

(iii) The auditor's report should contain a statement of positive assurance on those items tested and negative assurance on those items not tested. It should also include all instances of noncompliance and instances or indications of fraud, abuse, or illegal acts found during or in connection with the audit.

(iv) The auditor's report should contain any other material deficiency identified during the audit not covered in paragraph (b)(3)(iii) of this section.

(v) When factors external to the program and to the auditor restrict the audit or interfere with the auditor's ability to form objective opinions and conclusions (such as denial of access to information by a company), the auditor is to notify the MMS. If the limitation is not removed, a description of the matter must be included in the auditor's report. MMS will take all legally enforceable steps necessary to seek information necessary to complete the audit.

(vi) If certain information is prohibited from general disclosure, the auditor's report should state the nature of the information omitted and the re-

quirement that makes the omission necessary.

(vii) Written audit reports are to be prepared in the format prescribed by the MMS.

(viii) In instances where the extent of the audit findings or the amounts involved do not warrant it, a formal audit report need not be issued. In lieu of an audit report, a memorandum of audit findings will be prepared and placed on the case file.

[49 FR 40026, Oct. 12, 1984, as amended at 58 FR 64903, Dec. 10, 1993]

§ 229.124 Documentation standards.

Every audit performed by a State under a delegation of authority must meet certain documentation standards. In particular, detailed workpapers must be developed and maintained.

(a) *Workpapers* are defined to include all records obtained or created in performing an audit.

(b) Each audit performed varies in scope and detail. As a result, the audit team must determine the best presentation of the workpapers for a particular audit. The following general standards of workpaper preparation are consistent with the goal of achieving proper documentation while maintaining sufficient flexibility.

(1) All relevant information obtained orally must be promptly recorded in writing and incorporated in the workpapers.

(2) Workpapers must be complete and accurate in order to provide support for findings and conclusions.

(3) Workpapers should be clear and understandable without the need for supplementary oral explanations. The information they contain must be clear, complete, and concise, so that anyone using the workpapers will be able to readily determine their purpose, the nature and scope of the work done, and the conclusions drawn.

(4) Workpapers must be legible and as neat as practicable. They must meet standards which allow their use as evidence in judicial and administrative proceedings.

(5) The information contained in workpapers should be restricted to matters which are materially important and relevant to the objectives established for the assignment.

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(6) Workpapers must be in sufficient detail to permit a subsequent independent execution of each audit procedure, assuming the target company retains its accounting documentation.

§ 229.125 Preparation and issuance of enforcement documents.

(a) Determinations of additional royalties due resulting from audit activities conducted under a delegation of authority must be formally communicated by the State, to the companies or other payors by an issue letter prior to any enforcement action. The issue letter will serve to ensure that all audit findings are accurate and complete by obtaining advance comments from officials of the companies or payors audited. Issue letters must be prepared in a format specified by the MMS, and transmitted to the company or payor. The company or payor shall be given 30 days from receipt of the letter to respond to the State on the findings contained in the letter.

(b) After evaluating the company or payor's response to the issue letter, the State shall draft a demand letter which will be submitted with supporting workpaper files to the MMS for appropriate enforcement action. Any substantive revisions to the demand letter will be discussed with the State prior to issuance of the letter. Copies of all enforcement action documents shall be provided to the State by MMS upon their issuance to the company or payor.

§ 229.126 Appeals.

(a) Appeals made pursuant to the rules and procedures at 30 CFR parts 243 and 290 related to demand letters issued by officers of the MMS for additional royalties identified under a delegation of authority shall be filed with the MMS for processing. The State regulatory authority shall, upon the request of the MMS, provide competent and knowledgeable staff for testimony, as well as any required documentation and analyses, in support of the lessor's position during the appeal process.

(b) An affected State, upon the request of the MMS, shall provide expert witnesses from their audit staff for testimony as well as required documentation and analyses to support the De-

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partment's position during the litigation of court cases arising from denied appeals. The cost of providing expert witnesses including travel and per diem is reimbursable under the provisions of a delegation of authority, at the Federal Government's existing per diem rates.

§ 229.127 Reports from States.

The State, acting under the authority of the Secretarial delegation, shall submit quarterly reports which will summarize activities carried out by the State during the preceding quarter of the year under the provisions of the delegation. The report shall include:

(a) A statistical summary of the activities carried out, e.g., number of audits performed, accounts reconciled, and other actions taken;

(b) A summary of costs incurred during the previous quarter for which the State is seeking reimbursement; and

(c) A schedule of changes which the State proposes to make from its approved plan.

[49 FR 37351, Sept. 21, 1984. Redesignated at 49 FR 40025, Oct. 12, 1984]

PART 230—RECOUPMENTS AND REFUNDS [RESERVED]

PART 232—INTEREST PAYMENTS [RESERVED]

PART 233—ESCROW AND INVESTMENTS [RESERVED]

PART 234—BONDING—PAYMENT LIABILITY [RESERVED]

PART 241—PENALTIES

Subpart A—General Provisions [Reserved]

Subpart B—Penalties for Federal and Indian Oil and Gas Leases

DEFINITIONS

Sec.

241.50 What definitions apply to this subpart?